

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

The proposed regulation modifies several regulations specific to portable fire extinguishers in order to more closely align them with those found in NFPA 10, Standard for Portable Fire Extinguishers, [1998 edition]. The main thrust of this change would alter the teardown frequency, where fire extinguishers are completely dismantled and internally inspected, from once a year to the National standard of once every six years. The requirement for a licensed technician to conduct an annual external inspection is currently in the regulation and will still be required to maintain the operational integrity of fire extinguishers.

Other regulatory recommendations were proposed to provide increased enforcement to protect the public from unscrupulous fire extinguisher companies as well as fulfill various programmatic needs. Several of these proposed changes including; the use of calibrated scales, current service manuals, written estimates and increased educational requirements, all of which were withdrawn from the initial proposal to be evaluated and discussed in consultation with the Fire Extinguisher Advisory Committee.

SUMMARY OF COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF April 19, 2002 THROUGH July 19, 2002

1. Sections 560(f) License Revisions

Opposition: None

Recommendation: Delete “State Fire Marshal designee” to regulation text. The regulation does not need to specify who will do the inspection.

SFM Response: The State Fire Marshal disagrees with the recommendation. Our purpose in expanding this section allows the SFM to recover costs by assessing a fee anytime a licensee requests a licensing revision which necessitates a physical inspection by a Deputy State Fire Marshal. The text “State Fire Marshal designee” clarifies who will conduct the inspection.

2. Sections 560.2(b)(6) and 575.1(f) Written Estimates

Opposition: The additional requirement to provide a written estimate would create an over-restrictive burden in the daily process and would be impossible to implement in that it is unknown what parts and materials would be required until the maintenance process is underway.

Recommendation: Submit to Fire Extinguisher Advisory Committee for further development.

SFM Response: The State Fire Marshal agrees with this recommendation. The SFM withdraws the proposed change and refers this item back to the Fire Extinguisher Advisory Committee.

3. Section 575 Service Manuals

Opposition: When servicing older fire extinguishers the current servicing manual may not be the appropriate service manual.

Recommendation: Do not adopt

SFM Response: The State Fire Marshal agrees with this comment and withdraws the proposed change.

4. Sections 575, 575.3(c), 575.4(a)(1), 578.1(d) Calibrated Scales

Opposition: There is no industry standard or legal requirement to use a calibrated scale for maintenance work. This is outside the scope and authority of the SFM. The current requirement for accurate scales is sufficient in that there is a tolerance allowed on the weight of the extinguishers by the manufacturers. Calibrated scales would be difficult to maintain when subjected to road vibration and day-to-day use.

Recommendation: Do not adopt

SFM Response: The State Fire Marshal agrees with this recommendation. The SFM withdraws the proposed change and refers this item back to the Fire Extinguisher Advisory Committee.

5. Section 575.1(f) Invoices

Opposition: The terms “maintenance and hydrostatic testing” are not a necessary addition to the text in that the term “service” is defined to include “maintenance, recharging and hydrostatic testing.”

Recommendation: Do not adopt proposed change in text

SFM Response: The State Fire Marshal withdraws the proposed change and refers this item back to the Fire Extinguisher Advisory Committee.

6. Section 575.1(g) Returned Parts

Opposition: To strike the words “offer to” in the proposed regulations will require the licensee to “always” return parts when most of the fire extinguisher owners do not want them.

Recommendation: Do not adopt proposed change in text

SFM Response: The State Fire Marshal agrees with this recommendation. The State Fire Marshal withdraws the proposed change and refers this item back to the Fire Extinguisher Advisory Committee.

7. Sections 575.4(a)(1) Six-Year Teardown

Opposition: This proposal, if implemented, would have an adverse economic impact on the entire fire extinguisher industry. There is no study or basis to change the teardown frequency from once a year to once every six years. If this proposal does go forward, the SFM should implement a phase-in or allow for a transition period to lessen the impact on the fire extinguisher industry.

Recommendation: Do not adopt or at least change the text to allow for a phase-in or transition period.

SFM Response: The State Fire Marshal is in opposition with the facts and recommendations presented during hearings. Much of the justification received in the testimony period given at the hearings centered on the economic impact, which have not been substantiated. Economic projections have been discussed relative to life safety, cost savings, and possible jobs lost. The State Fire Marshal can find no substantial data to support these assertions or opinions presented during the comment period.

The requirement for an annual external maintenance examination is consistent with the national standard NFPA 10. An annual maintenance requirement for portable fire extinguishers is currently an essential part of Title 19. This maintenance does not represent an additional cost to California business. This move to conform to the national standard may reduce the cost to California business since internal maintenance would be required only every six years as opposed to the current annual requirement.

Twelve monthly external examinations conducted by the business or property owner of a particular portable fire extinguisher does not equate to an annual certified technician performing an external examination. A licensed and certified technician is required by regulations to have the appropriate service manuals, proper tools and supplies, and approved spare parts to perform the annual maintenance. It is costly, and unlikely that an untrained person would have these items available. To perform the required maintenance outlined in 575.2, 575.3 and Table 4 of the regulations without these items may void the extinguisher manufacturer's warranty according to the Fire Equipment Manufacturers' Association and NFPA 10. This is a violation of the Health & Safety Code § section 13190.3 (b)

Underwriters Laboratories states that to maintain its UL Listing, a fire extinguisher is to be serviced and maintained in accordance with NFPA 10, the instructions on the extinguisher nameplate and the manufacturers' Service and Owner's Manuals. To use any parts or agents not specifically identified by the manufacturer does not maintain the UL Listing for that portable fire extinguisher, and would not be considered UL Listed. It is a statutory requirement that portable fire extinguishers be listed by either UL or Factory Mutual (FM).

Over 80% of the portable fire extinguisher service industry supports the proposed regulation changes. The Fire Equipment Manufacturer's Association, Inc. also is in supports to the regulation change. SFM referred to the recommended use of the national standard NFPA 10 as enforced in 48 other states to base any and all changes to current Title 19.

Several phase-in proposals of the six-year maintenance have been discussed. The State Fire Marshal disagrees with industries projected economic impact if a phased approach is not enacted.

Since an annual external maintenance is still required, we believe immediate implementation will have an acceptable economic impact on the industry. It will ensure the reliability of portable fire extinguishers and provide for a reduction in costs to all other California business.

8. Section 578.10(a) Leak Testing

Opposition: None

Recommendation: Revise text to read “leak tests shall be performed by following the manufacturer’s requirements and may include a leak test solution or a solution of soapy water.”

SFM Response: The State Fire Marshal agrees with this comment. The SFM will make non-substantial changes to the text by adjusting appropriate text.

9. Section 591.5 Replacement Extinguishers

Opposition: The term “equal quality” is subjective.

Recommendation: Change text to NFPA 10 standard to read “fire extinguishers removed from service for hydrostatic testing or any other purpose shall be replaced by a fire extinguisher suitable for the type of hazard being protected and shall be of at least equal rating.”

SFM Response: The State Fire Marshal agrees with the recommendation and withdraws the proposed change and refers this item back to the Fire Extinguisher Advisory Committee.

10. Section 594.3 Test Equipment

Opposition: None

Recommendation: It is not necessary in section 594.3(4), to specify a licensing requirement when the licensing requirements are already defined in the code.

SFM Response: The State Fire Marshal disagrees with this comment. The proposed changes specify equipment required, and clarifies certain requirements which currently exist in the regulations under 594.3.

11. Section 594.5(c)(4) Recording of Tests

Opposition: None

Recommendation: Change the term “reporting requirements” to recording requirements”

SFM Response: The State Fire Marshal agrees with this comment. The SFM will make non-substantial changes by correcting appropriate text.

12. Section 595.5(a)(3) Fire Extinguisher License Types

Opposition: None

Recommendation: add the word “concern” to the last sentence to read “and the fire extinguisher concern shall possess the test equipment as specified in Section 594.2.”

SFM Response: The State Fire Marshal agrees with this comment. The SFM will make non-substantial changes by adding the appropriate text.

13. Section 595.5(f) Fire Extinguisher License Qualification

Opposition: It may be unrealistic to get a fire extinguisher company to provide an employee with a written letter stating the prospective licensee's experience if they know that the employee will start their own business and become a competitor. It does not take two years to learn how to maintain and/or re-service a fire extinguisher.

Recommendation: None

SFM Response: The State Fire Marshal disagrees with this remark. A written letter stating a prospective licensee's experience will provide a basis to evaluate an individual's experience and ensure that a license is issued only to qualified individuals.

14. Section 595.5(f) Fire Extinguisher License Qualification

Comments: The last sentence, which contains the word “manufactures” should be corrected to use the word “manufacturers.”

Recommendation: Change word in last sentence from manufactures to manufacturers.

SFM Response: The State Fire Marshal agrees with this comment. The SFM will make non-substantial changes by correcting the appropriate text.

15. Section 595.9 Certificates of Registration (Training)

Opposition: The courses required in this new section is either not relevant or does not exist. This section would limit recruiting for new employees to a narrow range of prospective applicants.

Recommendation: Withdraw the proposed change until an industry developed training program is developed.

SFM Response: The State Fire Marshal agrees with this recommendation. The SFM withdraws the proposed change and refers this item back to the Fire Extinguisher Advisory Committee.

16. Section 595.10 Examination Procedures

Opposition: Retesting for a renewal license is a waste of time. If the licensee has been initially tested by the SFM and passed they should know what they are doing.

Recommendation: Withdraw proposed text

SFM Response: The State Fire Marshal agrees with the recommendation and withdraws the proposed change.

17. Section 595.14 Mobile Service Vehicles

Opposition: There are some mobile service vehicles equipped to service portable fire extinguishers in California that are not subject to inspection by the SFM. These are vehicles operated by firms or corporations that are exempt from regulations adopted by the SFM as provided in Section 13190.1 of the Health and Safety Code. Other vehicles not subject to inspection are vehicles for sale or vehicles which are not in service.

The SFM already has the authority to inspect vehicles engaged in servicing portable fire extinguishers in California. The SFM should not have authority to “pull over” or “detain” vehicles that are not engaged in the service of portable fire extinguishers. Mobile service vehicles equipped to service portable fire extinguishers are frequently used for other purposes, or driven by persons that are not fire extinguisher technicians.

Recommendation: Do not adopt

SFM Response: The State Fire Marshal agrees with this recommendation. The SFM withdraws the proposed change and refers this item back to the Fire Extinguisher Advisory Committee.

18. Sections 596.1(a)(10) and 596.1(d)(8) Required Information

Opposition: None

Recommendation: The term “local” telephone number should be deleted. The licensed concern is not restricted by regulations to provide services anywhere in the state.

SFM Response: The State Fire Marshal agrees with this recommendation and withdraws the proposed change.

ALTERNATIVES DETERMINATION

The SFM has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

LOCAL MANDATE DETERMINATION

The proposed regulation does not impose any mandate on local agencies or school districts.

COORDINATION WITH FEDERAL LAW

Federal law is not applicable in this case.